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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,928	11/06/2003	Douglas A. Bulleit	030308/BLL0105US2	2927

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EXAMINER

SAINT CYR, JEAN D

ART UNIT

PAPER NUMBER

2425

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,928	Applicant(s) BULLEIT ET AL.	
	Examiner JEAN D. SAINT CYR	Art Unit 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This action is in response to applicant's amendment filed on 04/06/2009. Claims 1-17 are still pending in the current application. Claims 18-19 are cancelled. Claim 20 is added. **This action is made FINAL.**

Response to Arguments

Applicant's arguments with respect to claims 1-17, 20 have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that Bi et al did not disclose all the limitations of claim 1 and adds a new limitation to that claim. However, Kenner et al disclose the PIM 64 maintains information on the subscriber in a user database, namely the types of content subscribed to, user preferences, limitations on service, and billing information, preloading and distribution of files based on predicted usage; the PIM makes the required updates to the database log. Also, the PIM keeps track of billing information for the users of the system. As a result, this action is made final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bi et al in view of Kenner et al, US No. 5956716.

Re claim 1, Bi et al disclose a content distribution system comprising: a content source(see fig.1, elements 102 and 103; server computer and video data);

a plurality of consumer networks located at a plurality of consumer locations(see fig.1), each consumer network including a controller (see fig.4, main controller)and a consumer storage device(see fig.4, local storage);

a distribution network coupling said content source to said controller of said consumer networks, said distribution network including network storage devices and network processors(see fig.1, element 101, computer network);

a grid computing platform including said controllers(see fig.1, computing platform), said network processors, said consumer storage devices and said network storage devices, said grid computing platform providing storage of said content across network storage devices and consumer storage devices and distribution of said content to one or more of said consumer networks(see fig.1), said controllers, said network processors, said consumer storage devices and said network storage devices executing grid applications to provide distributed processing of content distribution tasks(see fig.4);

But did not explicitly disclose wherein said content is associated with a content profile and said consumer network is associated with a consumer profile, said content being distributed to said consumer network in response to said content profile and said consumer profile: said consumer network includes a device for displaying said content, said content being distributed to said consumer network in response to said content profile, said consumer profile and a device profile associated with a consumer viewing device; and the content distribution system manages an intersection of said content profile, said consumer profile and said device profile.

However, Kenner et al disclose wherein said content is associated with a content profile and said consumer network is associated with a consumer profile(The PIM 64 maintains information on the subscriber in a user database, namely the types of content subscribed to, user preferences, limitations on service, and billing information, col.21,lines 43-46 , said content being distributed to said consumer network in response to said content profile and said consumer profile(preloading and distribution of files

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based on predicted usage, col.30, lines 4-5),said consumer network includes a device for displaying said content(where the user is using a television screen,col.10, line 5), said content being distributed to said consumer network in response to said content profile, said consumer profile and a device profile associated with a consumer viewing device(The PIM 64 periodically ,e.g. hourly, collects and saves in its database the frequency with which each file on its extended SRUs 66 is requested as a function of day of week and time of day. The frequency of file access in each of numerous pre-defined categories is tabulated and saved, as is the frequency of access of each individual file, and the user's communication link speed used for each previous download. The above information is used to predict future usage,col.30, lines 13-21);

and the content distribution system manages an intersection of said content profile, said consumer profile and said device profile(see fig.1, element 22, primary index manager; the PIM makes the required updates to the database log. Also, the PIM keeps track of billing information for the users of the system, col.5,lines 34-37).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Bi with the invention of Kenner for introducing a management unit in order to allow the system to send contents to users according to their profile.

Re claim 2, Bi et al disclose said grid computing platform compresses content prior to said distribution of said content to one of said consumer networks(see fig.4, modem).

Re claim 3, Bi et al disclose wherein: said grid computing platform encodes content prior to said distribution of said content to one said consumer networks (see fig.4, modem).

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Re claim 4, Bi et al did not explicitly disclose one of said consumer networks specifies a quality of service, delivery of said content being billed in response to said quality of service.

However, Kenner et al disclose one of said consumer networks specifies a quality of service, delivery of said content being billed in response to said quality of service(The user is queried as to price limits for monthly charges, and provides billing information, such as a credit card number. User configuration data is collected, such as the desired playback quality and resolution of video clips. The user also establishes acceptable content restrictions for use in the ratings, col.33, lines 42-48).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Bi with the invention of Kenner for the purpose of allowing users to receive quality service according to their subscription.

Re claim 5, Bi et al disclose wherein: said distribution of said content includes distributing content from a first consumer network to a second consumer network (see fig.1).

Re claim 6, Bi et al did not explicitly disclose wherein: said distribution of said content includes delivering a first portion of said content from a first content source, delivering a second portion of said content from a second content source, and assembling said first portion and said second portion at a first consumer network.

However, Kenner et al teach said distribution of said content includes delivering a first portion of said content from a first content source, delivering a second portion of said content from a second content source, and assembling said first portion and said second portion at a first consumer network (see fig.4, the DSI can be loading segment concurrently from separate SRUs in preparation for download to the user terminal, col.32, lines 48-50; that means video content was collected from two different sources).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement said distribution of said content includes delivering a first portion of said content from a first content source, delivering a second portion of said content from a second content source, and assembling said first portion and said second portion at a first consumer network into the system of Bi, as taught by Kenner, for the purpose of limiting congestion of bandwidth..

Re claim 7, Bi et al did not disclose said first content source is said network storage device and said second content source is a second consumer network.

However, Kenner et al teach said first content source is said network storage device and said second content source is a second consumer network (see fig.1, local SRU and Remote SRU; that means the remote SRU is a network device and the local SRU is storage of the consumer network).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement said first content source is said network storage device and said second content source is a second consumer network into the system of Bi for the purpose of limiting congestion of bandwidth.

Re claim 8, Bi et al did not explicitly teach wherein said first portion is video and said second portion is video.

However, Kenner et al disclose wherein said first portion is video and said second portion is video (segmented clips are stored as stored separately accessible records, col.6, lines 33-34; that means both segments of the clip are video).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein said first portion is video and said second

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portion is video into the system of Bi for allowing the system to combine segments of a video stream.

Re claim 9, Bi et al did not explicitly teach said first portion is even video frames and said second portion is odd video frames.

However, Kenner et al disclose said first portion is even video frames and said second portion is odd video frames (content provider can tie additional information to frames of a clip, col.32, lines 51-53; including predefined codes associated with a particular frames, col.33, lines 1-2; that means the predefined code could be even code or odd code associated to video frames).

It would have been obvious to implement even video frames and odd video frames into the system of Bi. With such extra option, it will become easier for users to establish the difference between the first portion and the second portion of a video clip.

Re claim 10, Bi et al did not explicitly teach said distribution of said content includes delivering a first portion of said content prior to viewing said content and streaming a second portion of said content in real time when said content is viewed.

However, Kenner et al disclose said distribution of said content includes delivering a first portion of said content prior to viewing said content and streaming a second portion of said content in real time when said content is viewed (it is preferable the communication interface between DSI and local SRU be at least 56 KBAUD to support the "real time" video, col.18, lines 4-7).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement said distribution of said content includes delivering a first portion of said content prior to viewing said content and streaming a second portion of said content in real time when said content is viewed into the system

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of Bi. Such modification will give opportunity to users to previously download the video part of clip and stream the audio part during the real schedule.

Re claim 11, Bi et al did not explicitly teach wherein said second portion of said content is audio.

However, Kenner et al disclose wherein said second portion of said content is audio (audio-only, col.35, line 3).

In view of the teaching of Kenner, it would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein said second portion of said content is audio into the system of Bi. With such modification, users will have the opportunity to separate the video component from the audio component.

Re claim 12, Bi et al did not explicitly teach said second portion of said content is a component of a video signal.

However, Kenner et al teach said second portion of said content is a component of a video signal (audio stream, col.32, line 11).

In view of the teaching of Kenner, it would have been obvious for any person in the art at that the invention was made to know that the audio part is composite of video signal.

Re claim 13, Bi et al did not explicitly disclose wherein said distribution of said content is performed in response to distribution network performance.

However, Kenner et al disclose wherein said distribution of said content is performed in response to distribution network performance (optimize performance, col.30, line 2).

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In view of the teaching of Kenner, it would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein said distribution of said content is performed in response to distribution network performance into the system of Bi. With such modification, users will have the opportunity to get access to data faster and congestion in the bandwidth will reduce too.

Re claim 14, Bi et al did not explicitly teach wherein said distribution network performance is determined based on bandwidth to one of said consumer networks.

However, Kenner et al teach wherein said distribution network performance is determined based on bandwidth to one of said consumer networks (to reduce bandwidth need, col.25, lines 41-48).

In view of the teaching of Kenner, it would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement wherein said distribution network performance is determined based on bandwidth to one of said consumer networks into the system of Bi. With such modification, Users will have the opportunity to have quick access to data in the system whenever there is no congestion in the bandwidth.

Re claim 15, Bi et al did not explicitly teach wherein content is delivered prior to viewing or for real time viewing in response to said bandwidth to one of said consumer networks.

However, Kenner et al disclose wherein content is delivered prior to viewing or for real time viewing in response to said bandwidth to one of said consumer networks (real time video, col.18, lines 6-7).

In view of the teaching of Kenner, it would have obvious for any person of ordinary skill at that time the invention was made to implement wherein content is

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delivered prior to viewing or for real time viewing in response to said bandwidth to one of said consumer networks into the system of Bi. With such modification, users will have the opportunity to have content delivered prior to viewing or for real time according to the state of the bandwidth of their system.

Re claim 16, Bi et al did not explicitly teach the number of active content delivery sessions to one of said consumer networks is determined based on said bandwidth.

However, Kenner et al disclose the number of active content delivery sessions to one of said consumer networks is determined based on said bandwidth (to reduce bandwidth need, multiple requests for the same video can be queued by DSI for short period of time, col.25, lines 41-43).

In view of the teaching of the teaching of Kenner, it would have been obvious for any person of ordinary skill in the art at that time the invention was made to implement the number of active content delivery sessions to one of said consumer networks is determined based on said bandwidth into the system of Bi. With such modification, users will have the opportunity to know that they will be able to receive more contents from the system whenever there is less congestion in the bandwidth.

Re claim 17, Bi et al disclose wherein: said distribution network includes at least one of DSL(The computing platform100 uses a network interface or modem 117 to access server computers 102 on the Internet or other computer network 101, 0027), cable and wireless networks(see fig.1).

Re claim 20, is met as previously discussed with respect to claim 4.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-

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3224. The examiner can normally reach on M-F 7:30-5:00 PM EST. If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reached on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean Duclos Saintcyr /

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425